

AMENDED IN SENATE APRIL 23, 2003

AMENDED IN SENATE APRIL 21, 2003

AMENDED IN SENATE MARCH 25, 2003

## **SENATE BILL**

**No. 463**

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**Introduced by Senator Hollingsworth**

**(Principal coauthors: Senators Alpert, Ducheny, and Morrow)**

(Principal coauthor: Assembly Member La Suer)

February 20, 2003

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An act to amend Section 15660 of the Welfare and Institutions Code, relating to in-home supportive services.

### LEGISLATIVE COUNSEL'S DIGEST

SB 463, as amended, Hollingsworth. In-home supportive services: criminal records.

Existing law requires the Department of Justice to secure any criminal record of a person to determine whether the person has been convicted of specified offenses, if an employer of the person requests the determination and submits fingerprints of the person to the department and the person is unlicensed and provides nonmedical domestic or personal care to an aged or disabled adult in the adult's own home. Existing law authorizes an employer to deny employment to a person if his or her criminal record indicates that the person has committed any of the specified crimes.

This bill would expand this list of crimes.

This bill would expressly include in the definition of employer, for these purposes, a defined public authority.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 15660 of the Welfare and Institutions Code is amended to read:

15660. (a) The Department of Justice shall secure any criminal record of a person to determine whether the person has ever been convicted of a violation or attempted violation of Section 243.4 of the Penal Code, a sex offense against a minor, or of any felony that requires registration pursuant to Section 290 of the Penal Code, or whether the person has been convicted or incarcerated within the last 10 years as the result of committing a violation or attempted violation of Section 273a, 273d, or subdivision (a) or (b) of Section 368, of the Penal Code, or as the result of committing a theft, robbery, burglary, money laundering, ~~fraud, as defined in Section 186.10 of the Penal Code, forgery as defined in Section 476 of the Penal Code, embezzlement, false impersonation, forfeiture of the deposit of money, as defined in subdivision (d) or (e) of Section 368 of the Penal Code,~~ or any felony, and shall provide a subsequent arrest notification pursuant to Section 11105.2 of the Penal Code, if both of the following conditions are met:

(1) An employer or potential employer of the person requests the determination and submits fingerprints of the person to the Department of Justice. For purposes of this paragraph, “employer” includes, but is not limited to, a public authority as defined in Section 12301.6, an in-home supportive services recipient, as defined by Section 12302.2, and any recipient of personal care services under the Medi-Cal program pursuant to Section 14132.95.

(2) The person is unlicensed and provides nonmedical domestic or personal care to an aged or disabled adult in the adult’s own home.

(b) (1) If it is found that the person has ever been convicted of a violation or attempted violation of Section 243.4 of the Penal Code, a sex offense against a minor, or of any felony that requires registration pursuant to Section 290 of the Penal Code, or that the person has been convicted or incarcerated within the last 10 years as the result of committing a violation or attempted violation of Section 273a, 273d, or subdivision (a) or (b) of Section 368, of the Penal Code, or as the result of committing a theft, robbery,

1 burglary, money laundering, ~~fraud, as defined in Section 186.10 of~~  
2 ~~the Penal Code, forgery as defined in Section 476 of the Penal~~  
3 ~~Code, embezzlement, false impersonation, forfeiture of the~~  
4 ~~deposit of money, as defined in subdivision (d) or (e) of Section~~  
5 ~~368 of the Penal Code, or any felony, the Department of Justice~~  
6 shall notify the employer or potential employer of that fact. If no  
7 criminal record information has been recorded, the Department of  
8 Justice shall provide the employer or potential employer with a  
9 statement of that fact.

10 (2) Any employer or potential employer may terminate  
11 employment or deny future employment to any person who is the  
12 subject of a report under paragraph (1) when the report indicates  
13 that the person has committed any of the crimes identified in  
14 paragraph (1).

15 (3) Nothing in this section shall be construed to require any  
16 employer or potential employer to hire any person who is the  
17 subject of a report under paragraph (1) when the report indicates  
18 that the person has not committed any of the crimes indicated in  
19 paragraph (1).

20 (c) (1) Fingerprints shall be on a card provided by the  
21 Department of Justice for the purpose of obtaining a set of  
22 fingerprints. The employer or potential employer shall submit the  
23 fingerprints to the Department of Justice. Within 30 calendar days  
24 of the receipt of the fingerprints, the Department of Justice shall  
25 notify the employer or potential employer of the criminal record  
26 information, as provided in this subdivision. If no criminal record  
27 information has been recorded, the Department of Justice shall  
28 provide the employer or potential employer with a statement of  
29 that fact as soon as possible, but not later than 30 calendar days of  
30 receipt of the fingerprints. If new fingerprints are required for  
31 processing, the Department of Justice shall, as soon as possible,  
32 but not later than 30 calendar days from the date of receipt of the  
33 fingerprints, notify the employer or potential employer that the  
34 fingerprints were illegible.

35 (2) Fingerprints may be taken by any local law enforcement  
36 officer or agency for purposes of paragraph (1).

37 (3) Counties shall notify any recipient of, or applicant for,  
38 in-home supportive services or personal care services under the  
39 Medi-Cal program, upon his or her application for in-home  
40 supportive services or personal care services or during his or her

1 annual redetermination, or upon the recipient's changing  
2 providers, that a criminal record check is available, and that the  
3 check can be performed by the Department of Justice.

4 (d) The Department of Justice shall charge a fee to the  
5 employer or potential employer to cover the costs of administering  
6 this section.

7 (e) It is the intent of the Legislature that the Department of  
8 Justice charge a fee to cover its cost in providing services in  
9 accordance with this section to comply with the 30-calendar-day  
10 requirement for provision to the department of the criminal record  
11 information, as contained in subdivision (c).

